

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4 and 42 U.S.C. § 1396n(d), the Department of Human Services amends Chapter 78, “Amount, Duration and Scope of Medical and Remedial Services,” Iowa Administrative Code.

This amendment changes the name of the “assisted living on-call” service to the “assisted living” service pursuant to direction from the Centers for Medicare and Medicaid Services (CMS).

This amendment also revises the description of the service to agree with the CMS-approved description, including references to consumer-directed attendant care (CDAC) agreements.

The amendment includes the CMS requirement for a documented daily assisted living encounter with the member.

This amendment complies with additional service requirements and the revised service name and definition as directed by CMS through CMS approval of the elderly waiver amendment IA 4155.R04.02. CMS approved the amendment on November 17, 2014, effective March 1, 2013.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2115C** on August 19, 2015.

The Department received comments from three respondents during the public comment period. A summary of the comments and the Department’s responses are as follows:

**Comment 1:** The respondent stated that they have concerns related to the changes being proposed by the Department in ARC 2115C, and the negative impact this will have on access to Medicaid members needing services in an assisted living facility in Iowa.

**Department Response 1:** In November 2014 the Centers for Medicare and Medicaid Services (CMS) approved a Home- and Community-Based Services (HCBS) Elderly Waiver amendment to authorize the Assisted Living On-Call Service. Approval of the amendment required that the Department make several revisions to the Iowa Administrative Code (IAC) for the Assisted Living On-Call Service. CMS required the following changes:

1. The name of the service has been revised from Assisted Living On-Call Service to Assisted Living Service. All references to “on-call” have been removed.
2. The definition of the service has been expanded.
3. Providers must document at least one assisted living encounter per billed day. This documentation must adhere to IAC 441-79.3 regarding documentation of Medicaid services.

**Comment 2:** How does the Department intend on defining an assisted living service encounter? Per ARC 2115C, the language appears to be attempting to implement the 1915(c) elderly waiver amendment:

a. "The service includes the 24 hour-hour-on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. The assisted living provider has documented at least one assisted living encounter that day."

**Department Response 2:** This rule is a direct result of the 1915(c) HCBS waiver amendment. An encounter is an interaction with a member. The daily assisted living encounter used to document the assisted living service cannot be a part of another service funded through the waiver or through Medicaid. For example, the encounter cannot be related to:

1. Meals if the meal is funded by Medicaid,
2. Medication management if medication management is included in the Consumer-Directed Attendant Care (CDAC) agreement,
3. Bathing assistance if bathing is included in the CDAC agreement,
4. Home health services if those services are included in a home health plan of care and funded through Medicaid.

**Comment 3:** For purposes of the new documentation proposed in ARC 2115C, what does the Department expect to be satisfactory?

a. The rule amendments state that the provider has documented at least one assisted living services encounter for that day, in accordance with rule. The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service." With that said, would the following documentation be acceptable as an example? July 5, 2015, 24-hours on-site supervision provided by staff throughout this period to tenant #1 to maintain her safety in her apartment and within the assisted living program tenant #1 was awake the morning at 7 a.m., excited for the day and starting getting dressed.

**Department Response 3:** The above example of documentation would not be sufficient documentation of a billable assisted living encounter. The new rule states that the encounter must be documented in accordance with Iowa Administrative Code (IAC) 441--79.3. Rule 441--79.3 specifically outlines the information that must be contained in the documentation for all Medicaid services, such as the staff person's name, the exact time of the service, the specific nature of the service, etc. Please refer to the IAC for Medicaid documentation requirements that apply to all Medicaid providers. New rules for assisted living further states that the member's response to the encounter is to be documented.

**Comment 4:** The respondent expressed concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often time fall squarely on a caregiver's notation ability. Confusing the situation further, if the service plan notes a service to be done on an "as needed basis", this would presumably not be considered an unscheduled need.

**Department Response 4:** Federal and state requirements for every Medicaid funded service does require documentation to comply with state and federal guidelines. For Iowa those guidelines are contained in IAC 441--79.3. Every Medicaid provider is responsible for implementing a documentation system that supports the service funded through Medicaid; without appropriate documentation the service is not payable and both the state and provider are at risk of recoupment through audit.

The assisted living provider must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

**Comment 5:** Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?

**Department Response 5:** The Assisted Living encounter can be any interaction with the member that is not part of that member's CDAC agreement or another funded Medicaid service. The assisted living must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

**Comment 6:** We don't think this rule change would be meant to make the assisted living service the same as a CDAC service.

**Department Response 6:** This rule for assisted living services has no impact on CDAC nor does this rule change the CDAC service. The rule does require that documentation for assisted living service fully resemble the documentation needed for other Medicaid funded services. While CDAC must be included in a formal CDAC Agreement and must be anticipated and regularly occurring, assisted living is flexible to meet the ever changing or transitory needs of each member.

The Department will not modify the administrative rule amendments published as **ARC 2115C** in the Iowa Administrative Bulletin based on the comments of the respondents. This amendments is identical to that published in the Iowa Administrative Bulletin as Notice of Intended Action.

The Council on Human Services adopted this amendment on October 14, 2015.

This amendment does not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa Code section 249A.4 and 42 U.S.C. § 1396n(d).

This amendment will become effective December 16, 2015.

The following amendment is adopted.

Rescind subrule 78.37(18) and adopt the following new subrule in lieu thereof:

**78.37(18)** Assisted living service. The assisted living service includes unanticipated and unscheduled personal care and supportive services that are furnished to waiver participants who reside in a homelike, noninstitutional setting. The service includes the 24-hour on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. Assisted living service is not reimbursable if performed at the same time as any service included in an approved consumer-directed attendant care (CDAC) agreement.

a. A unit of service is one day.

b. A day of assisted living service is billable only if both the following requirements are met:

(1) The member was present in the facility during that day's bed census.

(2) The assisted living provider has documented at least one assisted living service encounter for that day, in accordance with rule 441—79.3(249A). The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service.

### Information on Proposed Rules

Name of Program Specialist Leann Howland	Telephone Number 515-256-4642	E-mail Address lhowlan@dhs.state.ia.us
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1. Give a brief summary of the rule changes: <ul style="list-style-type: none"> <li>At CMS direction, changing the name of the service from "Assisted Living On-Call" to "Assisted Living".</li> <li>Revising the description of the service to agree with the CMS approved description, including references to CDAC agreements.</li> <li>Including CMS requirement of a documented daily Assisted Living encounter with the member.</li> </ul>
2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations) : Iowa Code section 249A.4 and federal funding requirements imposed pursuant to 42 USC § 1396n(d)
3. What is the reason for the Department requesting these changes? <ul style="list-style-type: none"> <li>To comply with additional service requirements and revised service name and definition as directed by CMS through their approval of the Elderly Waiver amendment IA 4155.R04.02. Amendment approved November 17, 2014; effective March 1, 2013.</li> </ul>
4. What will be the effect of this rule making? (Who, what, when, how)? <ul style="list-style-type: none"> <li>In order to bill the daily Assisted Living service, assisted living providers must to begin to document at least one encounter daily with the member. That encounter cannot be for an approved CDAC service for that member.</li> <li>Name change will have no effect on providers or members. Change is being done in order to comply with CMS direction as contained in the approved waiver amendment.</li> </ul>
5. Is the change mandated by State or Federal Law? (Cite the authorizing state and federal statutes and federal regulations) <ul style="list-style-type: none"> <li>The recently approved CMS Waiver Amendment IA 4155.R04.02 to add Assisted Living Service to the Elderly Waiver mandates the changes in regards to service name, service description, and documented daily encounter.</li> </ul>
6. Will anyone be affected by this rule change? If yes who will be affected and will it be to the person(s) benefit or detriment? <ul style="list-style-type: none"> <li>Assisted living providers will be affected as they will be required to briefly document a daily encounter with a waiver member, outside of approved CDAC services. This documentation can be very brief, but per CMS direction the documentation must include the member's response.</li> <li>There will be no impact on members as these changes will not affect service provision or availability.</li> </ul>
7. What are the potential benefits of this rule? <ul style="list-style-type: none"> <li>These rule changes are needed to bring the Assisted Living service into compliance with the recently approved waiver amendment that authorizes the service to be provided and funded through Iowa Medicaid.</li> </ul>
8. What are the potential costs, to the regulated community or the State of Iowa as a whole, of this rule? <ul style="list-style-type: none"> <li>Minimal cost to the provider of service, as they will now document at least one Assisted Living service encounter per day for any Elderly Waiver member authorized to receive the assisted living service.</li> <li>There will be no additional cost to the State of Iowa as a result of these rule changes.</li> </ul>
9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code Sections apply? No other agencies regulate Elderly Waiver services funded through Iowa Medicaid.



<p>10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?</p> <ul style="list-style-type: none"> <li>No other alternatives are available as the revision to the existing Assisted Living rules is required in order to comply with CMS requirements in the approved waiver amendment.</li> </ul>
<p>11. Does this rule contain a waiver provision? If not, why?</p> <p>Medicaid has determined that the rule should be applicable to all members and providers who are eligible.</p>
<p>12. What are the likely areas of public comment? Assisted living providers will not want to document the daily encounter, but CMS has indicated that documentation of a daily encounter must occur or the service is not payable by the department. The department would be subject to federal recoupment if the department pays assisted living claims without appropriate documentation.</p>
<p>13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)</p> <p>No, These changes should not cause any impact on jobs or employment opportunities.</p>

## ADMINISTRATIVE RULE FISCAL IMPACT STATEMENT

Date: 7/20/15

**Agency:** Human Services

**IAC citation:** 441 IAC

**Agency contact:** Leann Howland 256-4642

**Summary of the rule:**

- At CMS direction, changing the name of the service from "Assisted Living On-Call" to "Assisted Living".
- Revising the description of the service to agree with the CMS approved description, including references to CDAC agreements.
- Including CMS requirement of a documented daily Assisted Living encounter with the member.

*Fill in this box if the impact meets these criteria:*

☒ No fiscal impact to the state.

☐ Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal impact cannot be determined.

**Brief explanation:**

Service name change and provider documentation change only.

*Fill in the form below if the impact does not fit the criteria above:*

Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

<b>Estimated Impact to the State by Fiscal Year</b>		
	Year 1 (FY )	Year 2 (FY )
<b>Revenue by each source:</b>		
General fund		
Federal funds		
Other (specify):		
<b>TOTAL REVENUE</b>		
<b>Expenditures:</b>		
General fund		
Federal funds		
Other (specify):		
<b>TOTAL EXPENDITURES</b>		
<b>NET IMPACT</b>		
<div style="margin-bottom: 10px;"> <input type="checkbox"/> This rule is required by state law or federal mandate.  <i>Please identify the state or federal law:</i> </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Funding has been provided for the rule change.  <i>Please identify the amount provided and the funding source:</i> </div> <div> <input type="checkbox"/> Funding has not been provided for the rule.  <i>Please explain how the agency will pay for the rule change:</i> </div>		
<b>Fiscal impact to persons affected by the rule:</b>		
<b>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</b>		
Agency representative preparing estimate: Brad Neuweg Telephone number: 281-0189		

## **HUMAN SERVICES DEPARTMENT[441]**

### **Adopted and Filed**

Pursuant to the authority of Iowa Code section 217.6, the Department of Human Services amends Chapter 150, "Purchase of Service," and Chapter 202, "Foster Care Placement and Services," Iowa Administrative Code.

These amendments provide a rate increase of 5 percent to resource family recruitment and retention contractors, child welfare emergency service contractors, and supervised apartment living foster care providers. These amendments align Department administrative rules with 2015 Iowa Acts, Senate File 505, section 29, subsection 6, which states:

"For the fiscal year beginning July 1, 2015, the reimbursement rates for resource family recruitment and retention contractors, child welfare emergency services contractors, and supervised apartment living foster care providers shall be increased by 5 percent over the rates in effect on June 30, 2015."

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 2124C** on September 2, 2015.

The Department received comments from one respondent during the comment period. A summary of the comments and the Department response is as follows:

**COMMENT:** The respondent requested that the 5% funding increase be reallocated or repealed for the following reasons:

1. Sufficient explanation is lacking as to how this increase would benefit child and families of Iowa.

**COMMENTS AND RESPONSES ON ARC 2115C**  
**Human Service Department Rule 441—78.37(18)**  
**Comments received September 8, 2015**

There was no public hearing on 16-018 Elderly Waiver Assisted Living Service rules. The following persons and organizations provided written comments which are included in the summary below; each submission was similar in content to the others.

1. Cindy Baddelo, Iowa Health Care Association
2. Christine Vasquez, Walden Point Affordable Assisted Living
3. Jesse Burns, Walden Point Affordable Assisted Living

**Comment 1:**

Department changes the assisted living "label" of the service to remove the words "on-call" and adds in an "encounter", with more documentation/paperwork.

On behalf of our 225 assisted living facility members, we have concerns related to the changes being proposed by the Department in ARC2115C, and the negative impact this will have on access to Medicaid members needing services in an assisted living facility in Iowa.

**Department Response 1:**

In November 2014 the Centers for Medicare and Medicaid Services (CMS) approved an Home and Community Based Services (HCBS) Elderly Waiver amendment to authorize the Assisted Living On-Call Service. Approval of the amendment required that the department make several revisions to the Iowa Administrative Code (IAC) for the Assisted Living On-Call Service. CMS required the following changes:

1. The name of the service has been revised from Assisted Living On-Call Service to Assisted Living Service. All references to "on-call" have been removed.
2. The definition of the service has been expanded.
3. Providers must document at least one assisted living encounter per billed day. This documentation must adhere to IAC 441-79.3 regarding documentation of Medicaid services.

**Comment 2:** How does the Department intend on defining an assisted living service encounter? Per ARC 2115C, the below language appears to be attempting to implement the 1915C elderly waiver amendment:

a. "The service includes the 24 hour-hour-on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. The assisted living provider has documented at least one assisted living encounter that day."

**Department Response 2:** This rule is a direct result of the 1915(c) HCBS waiver amendment. An encounter is an interaction with a member. The daily Assisted Living encounter used to document the Assisted Living service cannot be a part of another service funded through the waiver or through Medicaid. For example, the encounter cannot be related to:

1. Meals if the meal is funded by Medicaid,
2. Medication management if medication management is included in the Consumer-Directed Attendant Care (CDAC) agreement,
3. Bathing assistance if bathing is included in the CDAC agreement,
4. Home health services if those services are included in a home health plan of care and funded through Medicaid.

**Comment 3:** For purposes of this new documentation that is proposed in ARC 2115C, what does the Department expect to be satisfactory?

a. Quoting ARC 2115C ".provider has documented at least one assisted living services encounter for that day, in accordance with rule. The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service." With that said, would the following documentation be acceptable as an example? *July 5, 2015, 24-hours on-site supervision provided by staff throughout this period to tenant #1 to maintain her safety in her apartment and within the assisted living program tenant #1 was awake the morning at 7 a.m., excited for the day and starting getting dressed.*

**Department Response 3:** The above example of documentation would not be sufficient documentation of a billable Assisted Living encounter. The new rule states that the encounter must be documented in accordance with Iowa Administrative Code (IAC) 441-79.3. Rule 79.3 specifically outlines the information that must be contained in the documentation for all Medicaid services, such as the staff person's name, the exact time of the service, the specific nature of the service, etc. Please refer to the IAC for Medicaid documentation requirements that apply to all Medicaid providers. New rules for Assisted Living further states that the member's response to the encounter is to be documented.

**Comment 4:** We have concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often time fall squarely on a caregiver's notation ability. Confusing the situation further, if the service plan notes a service to be done on an "as needed basis", this would presumably not be considered an unscheduled need.

**Department Response 4:** Federal and state requirements for every Medicaid funded service does require documentation to comply with state and federal guidelines. For

Iowa those guidelines are contained in IAC 79.3. Every Medicaid provider is responsible for implementing a documentation system that supports the service funded through Medicaid; without appropriate documentation the service is not payable and both the state and provider are at risk of recoupment through audit.

The Assisted Living provider must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

**Comment 5:** Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?

**Department Response 5:** The Assisted Living encounter can be any interaction with the member that is not part of that member's CDAC agreement or another funded Medicaid service. The Assisted Living must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

**Comment 6:** We don't think this rule change would be meant to make the assisted living service the same as a CDAC service.

**Department Response 6:** This rule for Assisted Living services has no impact on CDAC nor does this rule change the CDAC service. The rule does require that documentation for Assisted Living service fully resemble the documentation needed for other Medicaid funded services. While CDAC must be included in a formal CDAC Agreement and must be anticipated and regularly occurring, Assisted Living is flexible to meet the ever changing or transitory needs of each member.

The Department will not modify the administrative rule amendments published as **ARC 2115C** in the Iowa Administrative Bulletin based on the comments of the respondents.

## Rossander, Harry V

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**From:** Christine Vasquez <christine@keywaymanagement.com>  
**Sent:** Tuesday, September 08, 2015 9:24 AM  
**To:** Policy Analysis  
**Subject:** Elderly Waiver On-Call Services

To whom it may concern;

1) How does the Department intend on defining an assisted living service encounter? Per ARC 2115C, the below language appears to be attempting to implement the 1915C elderly waiver amendment:

a. "The service includes the 24 hour-hour-on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. The assisted living provider has documented at least one assisted living encounter that day."

2) For purposes of this new documentation that is proposed in ARC 2115C, what does the Department expect to be satisfactory?

a. Quoting ARC 2115C ".provider has documented at least one assisted living services encounter for the that day, in accordance with rule. The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service." With that said, would the following documentation be acceptable as an example? July 5, 2015, 24-hours on-site supervision provided by staff throughout this period to tenant #1 to maintain her safety in her apartment and within the assisted living program tenant #1 was awake the morning at 7 a.m., excited for the day and starting getting dressed.

b. We have concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often times fall squarely on a caregivers notation ability. Confusing the situation further, if the service plan notes a service to be done on a "as needed basis", this would presumably not be considered an unscheduled need.

3) Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?

a. We don't think this rule change would be meant to make the assisted living service the same as a CDAC service.



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Christine Vasquez  
Administrator  
515-288-9985  
515-288-4631 fax

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## Rossander, Harry V

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**From:** Cindy Baddeloo <Cindy@iowahealthcare.org>  
**Sent:** Tuesday, September 08, 2015 9:47 AM  
**To:** Policy Analysis  
**Subject:** ARC2115C

ARC2115C (<https://www.legis.iowa.gov/docs/aco/arc/2115C.pdf>)

**RE: Department changes the assisted living "label" of the service to remove the words "on-call" and adds in an "encounter", with more documentation/paperwork.**

On behalf of our 225 assisted living facility members, we have concerns related to the changes being proposed by the Department in ARC2115C, and the negative impact this will have on access to Medicaid members needing services in an assisted living facility in Iowa.

- 1) **For purposes of this new documentation that is proposed in ARC 2115C , what does the Department expect to be satisfactory? This additional documentation again will moves it back to being more burdensome and difficult for the direct care giver.**
  - a. Quoting ARC 2115C *"...provider has documented at least one assisted living services encounter for the that day, in accordance with rule... The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service."* With that said, would the following documentation be acceptable as an example? July 5, 2015, 24-hours on-site supervision provided by AL staff throughout the day. Tenant was awake at 7 a.m., excited for the day and starting getting dressed.
  - b. ICAL has concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often times fall squarely on a caregivers notation ability. Confusing the situation further, if the service plan notes a service to be done on a "as needed basis", this would presumably not be considered an unscheduled need.
- 3) **Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?**
  - a. ICAL doesn't think this rule change would be meant to make the assisted living service the same as a CDAC service.

**Cindy Baddeloo** | Senior VP/COO

Iowa Health Care Association ~ Iowa Center For Assisted Living  
1775 90th Street, West Des Moines, IA 50266-1563  
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[cindy@iowahealthcare.org](mailto:cindy@iowahealthcare.org) | [www.iowahealthcare.org](http://www.iowahealthcare.org)

## Rossander, Harry V

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**From:** Howland, Leann  
**Sent:** Friday, September 25, 2015 2:47 PM  
**To:** Rossander, Harry V  
**Subject:** FW: Info Letter #1528 – Elderly Waiver Assisted Living On-Call Service

Original email per your request

-----Original Message-----

**From:** Howland, Leann  
**Sent:** Wednesday, September 09, 2015 8:06 AM  
**To:** 'jesse@burnshousing.com'  
**Subject:** RE: Info Letter #1528 – Elderly Waiver Assisted Living On-Call Service

Responses are embedded below each question. Thanks for the opportunity to respond.

-----Original Message-----

**From:** [jesse@burnshousing.com](mailto:jesse@burnshousing.com) [<mailto:jesse@burnshousing.com>]  
**Sent:** Tuesday, September 08, 2015 4:10 PM  
**To:** Howland, Leann  
**Subject:** Re: Info Letter #1528 – Elderly Waiver Assisted Living On-Call Service

1) How does the Department intend on defining an assisted living service encounter? Per ARC 2115C, the below language appears to be attempting to implement the 1915C elderly waiver amendment:

a. "The service includes the 24 hour-hour-on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. The assisted living provider has documented at least one assisted living encounter that day."

Response: An encounter is an interaction with a member. The daily assisted living encounter used to document the assisted living service cannot be a part of another service paid through the waiver or through Medicaid. For example, the encounter cannot be related to:

- meals if the meal is paid by Medicaid,
- meds if med management is included in the CDAC agreement,
- bathing if bathing is included in the CDAC agreement

2) For purposes of this new documentation that is proposed in ARC 2115C, what does the Department expect to be satisfactory?

a. Quoting ARC 2115C ".provider has documented at least one assisted living services encounter for that day, in accordance with rule. The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service." With that said, would the following documentation be acceptable as an example? July 5, 2015, 24-hours on-site supervision provided by staff throughout this period to tenant #1 to maintain her safety in her apartment and within the assisted living program tenant #1 was awake the morning at 7 a.m., excited for the day and starting getting dressed.

Response: No, this would not be sufficient documentation of an encounter. The new rule states that the encounter must be documented in accordance with IAC441-79.3. Rule 79.3 specifically outlines the information that must be

contained in the documentation for all Medicaid services, such as the staff person's name, the exact time of the service, the specific nature of the service, etc. New rules for Assisted Living further states that the member's response to the encounter is to be documented.

b. We have concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often time fall squarely on a caregiver's notation ability. Confusing the situation further, if the service plan notes a service to be done on an "as needed basis", this would presumably not be considered an unscheduled need.

Response: Federal and state requirements for every Medicaid funded service does require documentation to comply with state and federal guidelines. For Iowa those guidelines are contained in IAC 79.3. The ALF must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

3) Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?

Response: the encounter can be any interaction with the member that is not part of that member's CDAC agreement.

a. We don't think this rule change would be meant to make the assisted living service the same as a CDAC service.

Response: this rule for assisted living services has no impact on CDAC nor does this rule change the CDAC service. The rule does require that documentation for assisted living service will fully resemble the documentation needed for other Medicaid funded services. While CDAC must be included in an formal Agreement and must be anticipated and regularly occurring, Assisted living is flexible to meet the ever changing needs of each member.

Jesse Burns

Affordable Assisted Livings:

Walden Point LP – Des Moines

Irving Point LP – Cedar Rapids

Emerson Point LP – Iowa City

## Rossander, Harry V

---

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**Sent:** Wednesday, September 09, 2015 8:06 AM  
**To:** 'jesse@burnshousing.com'  
**Subject:** RE: Info Letter #1528 – Elderly Waiver Assisted Living On-Call Service

Responses are embedded below each question. Thanks for the opportunity to respond.

-----Original Message-----

**From:** [jesse@burnshousing.com](mailto:jesse@burnshousing.com) [mailto:[jesse@burnshousing.com](mailto:jesse@burnshousing.com)]  
**Sent:** Tuesday, September 08, 2015 4:10 PM  
**To:** Howland, Leann  
**Subject:** Re: Info Letter #1528 – Elderly Waiver Assisted Living On-Call Service

1) How does the Department intend on defining an assisted living service encounter? Per ARC 2115C, the below language appears to be attempting to implement the 1915C elderly waiver amendment:

a. "The service includes the 24 hour-hour-on-site response capability to meet unpredictable member needs as well as member safety and security through incidental supervision. The assisted living provider has documented at least one assisted living encounter that day."

Response: An encounter is an interaction with a member. The daily assisted living encounter used to document the assisted living service cannot be a part of another service paid through the waiver or through Medicaid. For example, the encounter cannot be related to:

- meals if the meal is paid by Medicaid,
- meds if med management is included in the CDAC agreement,
- bathing if bathing is included in the CDAC agreement

2) For purposes of this new documentation that is proposed in ARC 2115C, what does the Department expect to be satisfactory?

a. Quoting ARC 2115C ".provider has documented at least one assisted living services encounter for that day, in accordance with rule. The documentation must include the member's response to the service. The documented assisted living service cannot also be an authorized CDAC service." With that said, would the following documentation be acceptable as an example? July 5, 2015, 24-hours on-site supervision provided by staff throughout this period to tenant #1 to maintain her safety in her apartment and within the assisted living program tenant #1 was awake the morning at 7 a.m., excited for the day and starting getting dressed.

Response: No, this would not be sufficient documentation of an encounter. The new rule states that the encounter must be documented in accordance with IAC441-79.3. Rule 79.3 specifically outlines the information that must be

contained in the documentation for all Medicaid services, such as the staff person's name, the exact time of the service, the specific nature of the service, etc. New rules for Assisted Living further states that the member's response to the encounter is to be documented.

b. We have concerns regarding the "unscheduled" nature of the documentation requirement. As is the risk with any new documentation mandate, the new proposed rules will lead to more staff time documenting for purposes of the waiver which means less time for staff to provide personal cares and services. Moreover, the unscheduled encounter will be difficult to implement, especially for providers with electronic health systems. As a result, the responsibility to ensure completion of this documentation will often time fall squarely on a caregiver's notation ability. Confusing the situation further, if the service plan notes a service to be done on an "as needed basis", this would presumably not be considered an unscheduled need.

Response: Federal and state requirements for every Medicaid funded service does require documentation to comply with state and federal guidelines. For Iowa those guidelines are contained in IAC 79.3. The ALF must have sufficient documentation to support that the service paid by Medicaid is in no way duplicative of the specific CDAC services that are included in that member's signed CDAC agreement. Each member's CDAC agreement can include a different array of services, so what may be CDAC for one member is not CDAC for another person.

3) Is an "encounter" still considered a "supervision visit" of the tenant, and not an IDAL/ADL?

Response: the encounter can be any interaction with the member that is not part of that member's CDAC agreement.

a. We don't think this rule change would be meant to make the assisted living service the same as a CDAC service.

Response: this rule for assisted living services has no impact on CDAC nor does this rule change the CDAC service. The rule does require that documentation for assisted living service will fully resemble the documentation needed for other Medicaid funded services. While CDAC must be included in an formal Agreement and must be anticipated and regularly occurring, Assisted living is flexible to meet the ever changing needs of each member.

Jesse Burns

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